

## **EXHIBIT F**

1 UNITED STATES DISTRICT COURT  
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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4 CSX TRANSPORTATION, INC., )  
5 Plaintiff, )  
6 vs. ) Civil Action  
7 PORT ERIE PLASTICS, INC., ) Case No.  
8 Defendant. ) 05-139 Erie

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10 Deposition of JOHN T. JOHNSON  
11 Corporate Designee of Port Erie Plastics, Inc.

12 Thursday, February 2, 2006

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14 The deposition of JOHN T. JOHNSON, called as a  
15 witness by the Plaintiff, pursuant to notice and the  
16 Federal Rules of Civil Procedure pertaining to the  
17 taking of depositions, taken before me, the  
18 undersigned, Teresa Constantini Berardi, a Notary  
19 Public in and for the Commonwealth of Pennsylvania, at  
20 the law offices of MacDonald Illig Jones & Britton,  
21 LLP, 100 State Street, Suite 700, Erie, Pennsylvania  
22 16507-1498, commencing at 10:32 a.m. the day and date  
23 above set forth.

19

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21 COMPUTER-AIDED TRANSCRIPTION BY  
22 MORSE, GANTVERG & HODGE, INC.  
23 ERIE, PENNSYLVANIA  
24 814-833-1799

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## 1 APPEARANCES:

2 On behalf of the Plaintiff:

3 Janssen & Keenan, P.C.:  
4 Charles L. Howard, Esquire  
5 One Commerce Square  
6 Suite 2050  
7 2005 Market Street  
8 Philadelphia, Pennsylvania 19103

9 On behalf of the Defendant:

10 MacDonald Illig Jones & Britton, LLP:  
11 Richard J. Parks, Esquire  
12 Scott Stroupe, Esquire  
13 100 State Street, Suite 700  
14 Erie, Pennsylvania 16507-1498

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## 16 ALSO PRESENT:

17 John Underwood  
18 James Witkowski

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I-N-D-E-X

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22 EXAMINATION BY:

23 Mr. Howard

PAGE:

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26 JOHNSON DEPOSITION EXHIBIT NOS.:

27 1 - Answers to Interrogatories of Plaintiff CSX  
28 Transportation, Inc. Addressed to Defendant  
29 Port Erie Plastics, Inc.

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1 MR. PARKS: I can, yes.

2 MR. HOWARD: Okay.

3 BY MR. HOWARD:

4 Q On page 2, about a third of the way down,  
5 subheading b., do you see that? "Port Erie was not a  
6 party to any shipping" -- do you see that?

7 A Uh-huh.

8 Q The third sentence in that paragraph says,  
9 "Port Erie Plastics did receive shipments of Nexpak  
10 resin from Presque Isle Trucking as directed by Nexpak  
11 as the agent of Nexpak based upon designated  
12 production runs by Nexpak on its equipment located at  
13 Port Erie Plastics."

14 It says here that the shipments received by  
15 Port Erie from Presque Isle were directed by Nexpak.

16 How did Nexpak direct the shipments of  
17 plastic by Presque Isle to Port Erie?

18 A Nexpak every day would review what our  
19 production requirements were based on their demands,  
20 would inform us of how many machines we were supposed  
21 to be running.

22 We made up to 800 or a million DVDs a day  
23 depending on what their needs were.

24 They would start machines up or slow  
25 machines down depending on what they needed for

1 product.

2           They would get a daily report from us that  
3 would show what was running, what the daily output  
4 was, what the previous day's output was.

5           They would then make a determination based  
6 on their needs what needed to run, what didn't need to  
7 run.

8           It was their responsibility to make sure  
9 there was enough resin available for us to fulfill  
10 those needs.

11           MR. PARKS: If I might, I think that might  
12 be a typo.

13           You actually asked Presque Isle to bring  
14 the trucks over; correct?

15           THE WITNESS: We would -- they would make  
16 sure that there were enough at Presque Isle. We  
17 would then schedule them.

18           They would call us, tell us, "Do you want  
19 any?"

20           We would say "yes" or "no," to make sure  
21 that we had enough to keep the presses running  
22 that Nexpak asked us to keep running that  
23 particular day.

24           MR. PARKS: I think I transposed "Nexpak,"  
25 "Port Erie as agent for Nexpak," as far as the

1 trucking.

2 MR. HOWARD: All right. So it sounds like  
3 this needs to be corrected?

4 MR. PARKS: Yes.

5 Directed by -- I believe that should say  
6 "Port Erie as the agent of Nexpak based upon  
7 designated production runs by Nexpak," and I  
8 think that was just -- I had to many Presque  
9 Isles, Port Eries.

10 MR. HOWARD: All right.

11 BY MR. HOWARD:

12 Q So this should read "Port Erie Plastics did  
13 receive shipments of Nexpak resin from Presque Isle  
14 Trucking as directed by Port Erie as the agent of  
15 Nexpak"?

16 A Yes, true statement.

17 Q Now, the communication between Port Erie  
18 and Presque Isle, both you and Mr. Witkowski have  
19 testified that that communication was going from  
20 Presque Isle in the form of a request, "Do you need  
21 anymore stuff?"

22 Is that how it always happened?

23 A I can't tell you that it happened that way  
24 a hundred percent of the time, but the majority of the  
25 time they would say, "Hey, do you need a truck today

1 or do you need one tomorrow?"

2 Based on what was running, we'd answer, "We  
3 need one this afternoon," "We need one tomorrow  
4 morning," et cetera, like that.

5 Q Mr. Witkowski testified that he believes  
6 that Nexpak was also receiving the inventory sheets  
7 from Presque Isle.

8 Is that your understanding as well?

9 A Well, I'm sure they did, because it was  
10 their responsibility to make sure there was enough  
11 resin in the Erie area for us to manufacture based  
12 upon their needs.

13 Q In the next paragraph, the second sentence  
14 says, "It is believed Nexpak and BP would designate  
15 the shipping terms and that all shipments were made  
16 prepaid from BP/Amoco locations as designated by BP  
17 for its sales to Nexpak."

18 What the basis of that belief?

19 A Somebody had to schedule the material.  
20 Nexpak was responsible to make sure there was enough  
21 material coming from BP.

22 They did that. That was their  
23 responsibility, to negotiate with BP to make sure  
24 there was enough coming into the pipeline based on  
25 what their demands were.